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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/067,879 | 02/08/2002 | Motonaka Kuroda | 217984US0 | 6589 |
| 22850 | 7590 | 12/02/2003 | EXAMINER | |
| OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. | | | WONG, LESLIE A | |
| 1940 DUKE STREET | | | ART UNIT | |
| ALEXANDRIA, VA 22314 | | | PAPER NUMBER | |

1761

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/067,879

Applicant(s)

KURODA ET AL.

Examiner

Leslie Wong

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 62-003758 in view of JP 57138359 and Mohlenkamp, Jr. et al.

JP 62-003758 discloses a seasoning composition comprising potassium, a glutamic acid, and a sugar alcohol (see corresponding abstract).

The claims differ as to the use of inosinic acid and sucrose.

JP 57138359 discloses a salting agent comprising potassium chloride, sodium 5-inosinate, and sodium glutamate (see abstract).

Mohlenkamp, Jr. et al disclose a salt substitute comprising inosinic acid and sucrose (see entire patent, especially column 3, lines 53-63 and column 4, lines 57-68).

It would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to use inosinic acid and sucrose in that of JP 62-003758 because the use of inosinic acid and sucrose in flavor products is conventional in the art.

In the absence of a showing to the contrary, the claimed amounts are seen to be no more than a matter of choice and well-within the skill of the art. At most, the amounts are seen to be no more than optimization, see *In re Boesch* 205 USPQ 215.

All of Applicant's components are taught by the prior art and Applicant uses the components for their art-recognized function. It is not seen where Applicant has provided a showing of unexpected results.

Attention is invited to *In re Levin*, 84 USPQ 232 and the cases cited therein, which are considered in point in the fact situation of the instant case, and wherein the Court stated on page 234 as follows:

This court has taken the position that new recipes or formulas for cooking food which involve the addition or elimination of common ingredients, or for treating them in ways which differ from the former practice, do not amount to invention, merely because it is not disclosed that, in the constantly developing art of preparing food, no one else ever did the particular thing upon which the applicant asserts his right to a patent. In all such cases, there is nothing patentable unless the applicant by a proper showing further establishes a coaction or cooperative relationship between the selected ingredients which produces a new, unexpected, and useful function. *In re Benjamin D. White*, 17 C.C.P.A. (Patents) 956, 39 F.2d 974, 5 USPQ 267; *In re Mason et al.*, 33 C.C.P.A. (Patents) 1144, 156 F.2d 189, 70 USPQ 221.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Wong whose telephone number is 703-308-1979. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Leslie Wong
Primary Examiner
Art Unit 1761